

Appl. No.: 10/663,274
Amdt. dated 12/15/2005
Reply to Office Action of 08/15/2005

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REMARKS/ARGUMENTS

In the Office Action dated August 15, 2005, Claims 1-4, 6-16, and 18-21 are pending. Claims 1-2, 6-8, 10-14, 18, 19, and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,244,541 to Hubert in view of U.S. Patent No. 6,523,796 to Abramowsky, et al. Dependent Claims 4, 9, 16, and 21 are rejected under 35 USC § 103(a) as being unpatentable over Hubert in view of Abramowsky, et al. in further view of U.S. Patent No. 5,884,736 to Burdisso, et al. or U.S. Patent No. 2,729,443 to Olinger. Claims 3 and 15 are rejected under 35 U.S.C. § 112, first paragraph, but indicated to be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112.

Applicant respectfully traverses the rejections as set forth below.

First, with regard to the rejection of independent Claims 1 and 12 under § 103(a), Applicant respectfully submits that the cited references cannot fairly be combined as set forth in the Office Action. In particular, Hubert cannot be fairly modified by Abramowsky, et al. as set forth in the Office Action for the following reasons.

Abramowsky, et al. is directed to a "Pivot Mounting Assembly" having a pivot arm that is hinged to a pivot base to be pivotable about a horizontal axis. For example, the pivot mounting assembly can be used in stands that are to be vertically adjustable. *See* col. 1, lines 5-12. Thus, unlike the present invention, the mounting assembly of Abramowsky, et al. is specifically directed to the provision of a pivotable mounting. Therefore, it would not have been obvious to use the configuration of the mounting assembly of Abramowsky, et al. in a device for preventing rotation as claimed.

Moreover, Abramowsky, et al. discloses a field of use as well as a function that is wholly unlike either the present invention or Hubert. In particular, Abramowsky, et al. states that "the pivot mounting assembly is suitable to be used in stands to mount, for example, lamps, visual display units and other devices, such as surgical microscopes which are to be provided vertically adjustable." Col. 1, lines 9-12. It would not have been obvious to a person of ordinary skill in the art of the present invention to use the device or teachings of Abramowsky, et al. in a shock isolation system as recited in Claim 12 or a device for a space launch as described by Hubert.

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In this regard, the Federal Circuit has stated that “[i]n order to rely on a reference as a basis for rejection of the applicant's invention, the reference must either be in the field of the applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned.” *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). For example, *In re Oetiker* concerned a patent application directed to a hose clamp having an improvement of a preassembly hook that maintains the preassembly condition of the clamp and disengages automatically when the clamp is tightened. See *In re Oetiker* at 1446. In a rejection, the Examiner relied on a reference (Lauro) describing a fastener for use in garments. According to the Federal Circuit's opinion:

The examiner stated that “since garments commonly use hooks for securement”, a person faced with the problem of unreliable maintenance of the pre-assembly configuration of an assembly line metal hose clamp would look to the garment industry art. The examiner explained further by stating that “Appellant's device as disclosed could be utilized as part of a garment”. The Board did not repeat or support the examiner's argument, or discuss its relevance. Indeed, the argument is not supportable. However, the Board held that the Lauro reference, although not “within the appellant's specific field of endeavor” is nonetheless “analogous art” because it relates to a hooking problem, as does Oetiker's invention.

We have reminded ourselves and the PTO that it is necessary to consider “*the reality of the circumstances*”, *In re Wood*, 599 F.2d 1032, 1036, 202 USPQ 171, 174 (CCPA 1979) — in other words, common sense — in deciding *in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor*.

It has not been shown that a person of ordinary skill, seeking to solve a problem of fastening a hose clamp, would reasonably be expected or motivated to look to fasteners for garments. *The combination of elements from nonanalogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness*. There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge can not come from the applicant's invention itself.

In re Oetiker at 1447 (emphasis added; citations omitted).

Similarly, a person of ordinary skill in the art of the present application would not be reasonably expected to look to a pivot mounting assembly for a stand for a solution to the shock isolation problem facing the present inventor. Abramowsky, et al. is *neither in the field of the*

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applicant's endeavor nor reasonably pertinent to the particular problem with which the present inventor is concerned. Indeed, in addition to the distinct difference in the application of the device of Abramowsky, et al., the reference is directed to a distinctly different problem. That is, Abramowsky, et al. is not even directed to shock isolation generally, but is instead concerned with enabling a compensation of the weight of a load that is to be supported independent of the pivot position. See Abramowsky, et al. at col. 2, lines 13-16. A person seeking to provide the shock isolation of the present invention would not have been expected to look to a device that uses springs to provide a compensation of the weight of a load mounted on a pivot mounting assembly independent of the pivot position so that a user can position the load at any desired height. See Abramowsky, et al. at col. 6, lines 28-43.

Accordingly, Applicant respectfully submits that the cited references cannot be fairly combined as suggested in the Office Action, and therefore the present invention as set forth in independent Claims 1 and 12 is not rendered obvious.

In addition, Applicant respectfully traverses the rejection of Claims 3 and 15 under § 112, on the basis that the claims are enabled by the specification. Claim 3 recites that linear bearing assemblies are configured to be independently axially moved such that the first device is configured to rotate relative to the second device about an axis transverse to the axial direction. Similarly, Claim 15 recites that linear bearing assemblies are configured to be independently axially moved such that the kill vehicle is configured to rotate relative to the boost device about an axis transverse to the axial direction. Independent axial movements of linear bearing assemblies result in rotation about an axis transverse to the axial direction as described in the specification of the present application:

Further, the isolators 40 can attenuate a relative rotational motion between the kill vehicle 50 and the boost device 60 about an axis transverse to the axial direction. For example, such a lateral motion results when one or more of the linear bearings 34 move independently, e.g., one or more of the linear bearings 34 move toward the kill vehicle 50 while one or more of the other linear bearings 34 move toward the boost device 60.

Present application a page 7, line 31 – page 8, line 2.

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It is evident from the above description and Figures 1-3 of the application that the kill vehicle 50 is configured to rotate relative to the boost device 60 at least partially about an axis transverse to the axial direction. For example, in Figure 1 the adapter 56 to the left of the figure is capable of moving axially toward the boost device 60 (downward) by correlated (downward) movement of the left linear bearing assembly to which the left adapter is attached. Additionally, in Figure 1, the adapter 56 to the right of the figure is capable of moving axially away from the boost device 60 (upward) by correlated (upward) movement of the right linear bearing assembly to which the right adapter is attached. That is, the left adapter and bearing assembly can move (downwardly) toward the boost device simultaneously while the right adapter and bearing assembly move (upwardly) away from the boost device. Such movements clearly entail a partial rotation of the kill vehicle 50 relative to the boost device 60. In particular, such movements entail a partial counter-clockwise rotation of the kill vehicle 50 relative to the boost device 60 about an axis that is perpendicular to the upward and downward movements of the linear bearing assemblies. Thus, the subject matter of Claims 3 and 15 is described in the specification in such a way as to enable one skilled in the art to make and use the invention. Accordingly, Applicant requests withdrawals of the rejection made under 35 U.S.C. § 112, first paragraph. Further, as Claims 3 and 15 stand rejected solely on that basis, these claims are therefore allowable.

For the reasons set forth above, Applicant respectfully submits that Claims 1-4, 6, 14-16, and 18-21 are allowable.

* * * * *

CONCLUSIONS

In view of the remarks presented above, Applicant submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

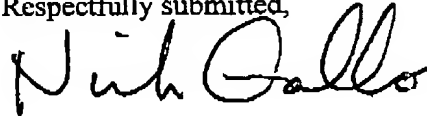
It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of

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this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



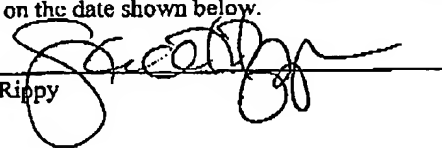
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Grace R. Rippey



December 15, 2005
Date